

1. Plaintiff/Counterclaim Defendant's request for Equitable/Injunctive relief as to the Land Development Activity/Improvement in Count II of the Complaint is hereby **DENIED**.
2. Counterclaim Plaintiffs are entitled to Declaratory Judgment holding that the Noncoal Surface Mining Conservation and Reclamation Act ("the Mining Act"), 52 Pa. Stat. Ann. §§ 3301-3326 (West), preempts the Township's actions with respect to the issuance of a permit for the quarry. Counterclaim Defendants are therefore hereby **ENJOINED** from:
 - a. Requiring Counterclaim Plaintiffs to comply with the H-12 Extractive Operation Use Provisions;
 - b. Requiring Counterclaim Plaintiffs to obtain a special exception in order to increase extraction activities;
 - c. Requiring Counterclaim Plaintiffs to obtain land development approval before installing new equipment or buildings specifically related to their mining operation.
3. With respect to Plaintiff/Counterclaim Defendant's request for Equitable/Injunctive Relief as to the Asphalt Plant in Count I of the Complaint and Counterclaim Plaintiffs' request for Declaratory Judgment that operation of asphalt plant equipment constitutes an accessory use to the Quarry, I decline to exercise jurisdiction under the Declaratory Judgment Act, 28 U.S.C. § 2201. Count I of the Complaint and Counterclaim Count I with respect to paragraph 92(d) of the Amended Answer, Affirmative Defenses, and Counter Claims (ECF No. 23), are hereby **SEVERED** and **REMANDED** to the Bucks County Court of Common Pleas.

/s/ Gerald Austin McHugh
United States District Judge